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CELINA TENT, INC.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

CALIFORNIA INDUSTRIAL  
FACILITIES RESOURCES, INC., dba  
CAMSS SHELTERS,

Plaintiffs,

v.

CELINA TENT, INC.

Defendant.

Case No.: 4:24-cv-00372 KAW

**DEFENDANT’S ANSWER TO  
PLAINTIFF’S FIRST AMENDED  
COMPLAINT**

Complaint Filed: January 22, 2024

Amended Complaint Filed: February 13, 2024

Trial Date: None Set

Defendant CELINA TENT, INC. (“Defendant”) hereby submits this answer to Plaintiff CALIFORNIA INDUSTRIAL FACILITIES RESOURCES, INC., dba CAMSS Shelters’s (“Plaintiff”) First Amended Complaint, and admits, denies, and alleges as follows:

**Parties, Jurisdiction, and Venue**

1. Answering Paragraph 1 of the First Amended Complaint, Defendant admits the allegations of Paragraph 1 of the First Amended Complaint.

2. Answering Paragraph 2 of the First Amended Complaint, Defendant admits the allegations of Paragraph 2 of the First Amended Complaint.

3. Answering Paragraph 3 of the First Amended Complaint, Paragraph 3 constitutes legal argument or contains legal conclusions, and as such, no response is required or appropriate.

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1 To the extent that any allegation in Paragraph 3 is intended to assert facts, Defendant lacks  
 2 sufficient knowledge and information to form a belief to admit or deny the allegations of  
 3 Paragraph 3, and on that basis, denies said allegations.

4 4. Answering Paragraph 4 of the First Amended Complaint, Paragraph 4 constitutes  
 5 legal argument or contains legal conclusions, and as such, no response is required or appropriate.  
 6 To the extent that any allegation in Paragraph 4 is intended to assert facts, Defendant lacks  
 7 sufficient knowledge and information to form a belief to admit or deny the allegations of  
 8 Paragraph 4, and on that basis, denies said allegations.

9 5. Answering Paragraph 5 of the First Amended Complaint, Paragraph 5 constitutes  
 10 legal argument or contains legal conclusions, and as such, no response is required or appropriate.  
 11 To the extent that any allegation in Paragraph 5 is intended to assert facts, Defendant lacks  
 12 sufficient knowledge and information to form a belief to admit or deny the allegations of  
 13 Paragraph 5, and on that basis, denies said allegations.

14 6. Answering Paragraph 6 of the First Amended Complaint, Paragraph 6 constitutes  
 15 legal argument or contains legal conclusions, and as such, no response is required or appropriate.  
 16 To the extent that any allegation in Paragraph 6 is intended to assert facts, Defendant lacks  
 17 sufficient knowledge and information to form a belief to admit or deny the allegations of  
 18 Paragraph 6, and on that basis, denies said allegations.

### 19 **Factual Background**

#### 20 **CAMSS Shelters and Military Sales**

21 7. Answering Paragraph 7 of the First Amended Complaint, Defendant lacks  
 22 sufficient knowledge and information to form a belief to admit or deny the allegations of  
 23 Paragraph 7, and on that basis, denies said allegations.

24 8. Answering Paragraph 8 of the First Amended Complaint, Defendant admits that  
 25 Plaintiff has sold rapid deployment and semi-permanent shelters and related goods and  
 26 accessories. Defendant lacks sufficient knowledge or information to form a belief to admit or  
 27 deny the remaining allegations of Paragraph 8, and on that basis, denies said allegations.

28 9. Answering Paragraph 9 of the First Amended Complaint, Defendant lacks  
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1 sufficient knowledge and information to form a belief to admit or deny the allegations of  
2 Paragraph 9, and on that basis, denies said allegations.

3 10. Answering Paragraph 10 of First Amended Complaint, Defendant lacks sufficient  
4 knowledge and information to form a belief to admit or deny the allegations of Paragraph 10, and  
5 on that basis, denies said allegations.

6 11. Answering Paragraph 11 of the First Amended Complaint, Defendant lacks  
7 sufficient knowledge and information to form a belief to admit or deny the allegations of  
8 Paragraph 11, and on that basis, denies said allegations.

9 12. Answering Paragraph 12 of the First Amended Complaint, Defendant lacks  
10 sufficient knowledge and information to form a belief to admit or deny the allegations of  
11 Paragraph 12, and on that basis, denies said allegations.

12 13. Answering Paragraph 13 of the First Amended Complaint, Defendant lacks  
13 sufficient knowledge and information to form a belief to admit or deny the allegations of  
14 Paragraph 13, and on that basis, denies said allegations.

15 14. Answering Paragraph 14 of the First Amended Complaint, Defendant lacks  
16 sufficient knowledge and information to form a belief to admit or deny the allegations of  
17 Paragraph 14, and on that basis, denies said allegations.

18 15. Answering Paragraph 15 of the First Amended Complaint, Defendant lacks  
19 sufficient knowledge and information to form a belief to admit or deny the allegations of  
20 Paragraph 15, and on that basis, denies said allegations.

21 16. Answering Paragraph 16 of the First Amended Complaint, Defendant lacks  
22 sufficient knowledge and information to form a belief to admit or deny the allegations of  
23 Paragraph 16, and on that basis, denies said allegations.

24 17. Answering Paragraph 17 of the First Amended Complaint, Defendant lacks  
25 sufficient knowledge and information to form a belief to admit or deny the allegations of  
26 Paragraph 17, and on that basis, denies said allegations.

27 18. Answering Paragraph 18 of the First Amended Complaint, Defendant lacks  
28 sufficient knowledge and information to form a belief to admit or deny the allegations of

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Paragraph 18, and on that basis, denies said allegations.

19. Answering Paragraph 19 of the First Amended Complaint, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the allegations of Paragraph 19, and on that basis, denies said allegations.

20. Answering Paragraph 20 of the First Amended Complaint, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the allegations of Paragraph 20, and on that basis, denies said allegations.

21. Answering Paragraph 21 of the First Amended Complaint, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the allegations of Paragraph 21, and on that basis, denies said allegations.

22. Answering Paragraph 22 of the First Amended Complaint, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the allegations of Paragraph 22, and on that basis, denies said allegations.

**The CAMSS, CAMSS Shelters, and California Medium Shelter System Trademarks**

23. Answering Paragraph 23 of the First Amended Complaint, Paragraph 23 constitutes legal argument or contains legal conclusions, and as such, no response is required or appropriate. To the extent that any allegation in Paragraph 23 is intended to assert facts, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the allegations of Paragraph 23, and on that basis, denies said allegations.

24. Answering Paragraph 24 of the First Amended Complaint, Paragraph 24 constitutes legal argument or contains legal conclusions, and as such, no response is required or appropriate. To the extent that any allegation in Paragraph 24 is intended to assert facts, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the allegations of Paragraph 24, and on that basis, denies said allegations.

25. Answering Paragraph 25 of the First Amended Complaint, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the allegations of Paragraph 25, and on that basis, denies said allegations.

26. Answering Paragraph 26 of the First Amended Complaint, Defendant lacks

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1 sufficient knowledge and information to form a belief to admit or deny the allegations of  
2 Paragraph 26, and on that basis, denies said allegations.

3 27. Answering Paragraph 27 of the First Amended Complaint, Paragraph 27  
4 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
5 appropriate. To the extent that any allegation in Paragraph 27 is intended to assert facts,  
6 Defendant admits the allegations of Paragraph 27 of the First Amended Complaint.

7 28. Answering Paragraph 28 of the First Amended Complaint, Paragraph 28  
8 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
9 appropriate. To the extent that any allegation in Paragraph 28 is intended to assert facts,  
10 Defendant admits the allegations of Paragraph 28 of the First Amended Complaint.

11 29. Answering Paragraph 29 of the First Amended Complaint, Paragraph 29  
12 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
13 appropriate. To the extent that any allegation in Paragraph 29 is intended to assert facts,  
14 Defendant admits the allegations of Paragraph 29 of the First Amended Complaint.

15 30. Answering Paragraph 30 of the First Amended Complaint, Paragraph 30  
16 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
17 appropriate. To the extent that any allegation in Paragraph 30 is intended to assert facts,  
18 Defendant admits the allegations of Paragraph 30 of the First Amended Complaint.

### 19 **Celina's Google Ad Campaign to Deceive CAMSS Customers**

20 31. Answering Paragraph 31 of the First Amended Complaint, Defendant admits that  
21 it sells and/or markets shelters to the military and governmental purchasers in competition with  
22 CAMSS. Except as so admitted, Defendant denies the remaining allegations in Paragraph 31.

23 32. Answering Paragraph 32 of the First Amended Complaint, Defendant admits the  
24 allegations of Paragraph 32 of the First Amended Complaint.

25 33. Answering Paragraph 33 of the First Amended Complaint, Defendant admits the  
26 allegations of Paragraph 33 of the First Amended Complaint.

27 34. Answering Paragraph 34 of the First Amended Complaint, Defendant lacks  
28 sufficient knowledge and information to form a belief to admit or deny the allegations of

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Paragraph 34, and on that basis, denies said allegations.

35. Answering Paragraph 35 of the First Amended Complaint, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the allegations of Paragraph 35, and on that basis, denies said allegations.

36. Answering Paragraph 36 of the First Amended Complaint, Defendant admits the allegations of Paragraph 36 of the First Amended Complaint.

37. Answering Paragraph 37 of the First Amended Complaint, Defendant admits it has paid to display sponsored search results and advertisements through online search engine advertising that direct users to the CelinaMilitaryShelters.com website, where Defendant advertises shelters in direct competition with Plaintiff. Answering the remaining allegations of Paragraph 37 of the First Amended Complaint, the remaining allegations of Paragraph 37 constitute legal argument or contain legal conclusions, and as such, no response is required or appropriate. To the extent that any of the remaining allegations in Paragraph 37 are intended to assert facts, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the remaining allegations of Paragraph 37, and on that basis, denies said allegations.

38. Answering Paragraph 38 of the First Amended Complaint, Defendant admits it has paid to display sponsored search results and advertisements through the Google Ads (formerly AdWords) service that direct users to the CelinaMilitaryShelters.com website, where Defendant advertises shelters in direct competition with Plaintiff. Answering the remaining allegations of Paragraph 38 of the First Amended Complaint, the remaining allegations of Paragraph 38 constitute legal argument or contain legal conclusions, and as such, no response is required or appropriate. To the extent that any of the remaining allegations in Paragraph 38 are intended to assert facts, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the remaining allegations of Paragraph 38, and on that basis, denies said allegations.

39. Answering Paragraph 39 of the First Amended Complaint, Defendant lacks sufficient knowledge and information to form a belief to admit or deny the allegations of Paragraph 39, and on that basis, denies said allegations.

40. Answering Paragraph 40 of the First Amended Complaint, Paragraph 40 {ABK-01531338;2}

1 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 2 appropriate. To the extent that any allegation in Paragraph 40 is intended to assert facts,  
 3 Defendant denies intentionally targeting Internet users searching for CAMSS products by  
 4 selecting targeted search keywords. Except as so denied, Defendant admits the remaining  
 5 allegations in Paragraph 40.

6 41. Answering Paragraph 41 of the First Amended Complaint, Paragraph 41  
 7 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 8 appropriate. To the extent that any allegation in Paragraph 41 is intended to assert facts,  
 9 Defendant denies targeting California and California customers. Except as so denied, Defendant  
 10 admits the remaining allegations in Paragraph 41.

11 42. Answering Paragraph 42 of the First Amended Complaint, Defendant lacks  
 12 sufficient knowledge and information to form a belief to admit or deny the allegations of  
 13 Paragraph 42, and on that basis, denies said allegations.

14 43. Answering Paragraph 43 of the First Amended Complaint, Paragraph 43  
 15 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 16 appropriate. To the extent that any allegation in Paragraph 43 is intended to assert facts,  
 17 Defendant denies each and every allegation contained in Paragraph 43.

18 44. Answering Paragraph 44 of the First Amended Complaint, Defendant lacks  
 19 sufficient knowledge and information to form a belief to admit or deny the allegations of  
 20 Paragraph 44, and on that basis, denies said allegations.

21 45. Answering Paragraph 45 of the First Amended Complaint, Defendant admits that  
 22 The Google Ad displayed in paragraph 44 above appears to direct users to the  
 23 www.CelinaMilitaryShelters.com website. Answering the remaining allegations of Paragraph 45  
 24 of the First Amended Complaint, the remaining allegations of Paragraph 45 constitute legal  
 25 argument or contain legal conclusions, and as such, no response is required or appropriate. To the  
 26 extent that any of the remaining allegations in Paragraph 45 are intended to assert facts,  
 27 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
 28 remaining allegations of Paragraph 45, and on that basis, denies said allegations.

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1           46.     Answering Paragraph 46 of the First Amended Complaint, Defendant lacks  
2 sufficient knowledge and information to form a belief to admit or deny the allegations of  
3 Paragraph 46, and on that basis, denies said allegations.

4           47.     Answering Paragraph 47 of the First Amended Complaint, Defendant admits that  
5 The Google Ad displayed in paragraph 46 above appears to direct users to the  
6 www.CelinaMilitaryShelters.com website. Answering the remaining allegations of Paragraph 46  
7 of the First Amended Complaint, the remaining allegations of Paragraph 46 constitute legal  
8 argument or contain legal conclusions, and as such, no response is required or appropriate. To the  
9 extent that any of the remaining allegations in Paragraph 47 are intended to assert facts,  
10 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
11 remaining allegations of Paragraph 47, and on that basis, denies said allegations.

12           48.     Answering Paragraph 48 of the First Amended Complaint, Defendant admits that  
13 examples shown in paragraph 48 appear to be Defendant's Google Ads. Answering the  
14 remaining allegations of Paragraph 48 of the First Amended Complaint, the remaining allegations  
15 of Paragraph 48 constitute legal argument or contain legal conclusions, and as such, no response  
16 is required or appropriate. To the extent that any of the remaining allegations in Paragraph 48 are  
17 intended to assert facts, Defendant lacks sufficient knowledge and information to form a belief to  
18 admit or deny the remaining allegations of Paragraph 48, and on that basis, denies said  
19 allegations.

20           49.     Answering Paragraph 49 of the First Amended Complaint, Paragraph 49  
21 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
22 appropriate. To the extent that any allegation in Paragraph 49 is intended to assert facts,  
23 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
24 allegations of Paragraph 49, and on that basis, denies said allegations.

25           50.     Answering Paragraph 50 of the First Amended Complaint, Paragraph 50  
26 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
27 appropriate. To the extent that any allegation in Paragraph 50 is intended to assert facts,  
28 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the

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1 allegations of Paragraph 50, and on that basis, denies said allegations.

2 51. Answering Paragraph 51 of the First Amended Complaint, Paragraph 51  
3 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
4 appropriate. To the extent that any allegation in Paragraph 51 is intended to assert facts,  
5 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
6 allegations of Paragraph 51, and on that basis, denies said allegations.

7 52. Answering Paragraph 52 of the First Amended Complaint, Defendant admits that  
8 Defendant uses images of shelters in its Google Ads. Answering the remaining allegations of  
9 Paragraph 52 of the First Amended Complaint, the remaining allegations of Paragraph 52  
10 constitute legal argument or contain legal conclusions, and as such, no response is required or  
11 appropriate. To the extent that any of the remaining allegations in Paragraph 52 are intended to  
12 assert facts, Defendant lacks sufficient knowledge and information to form a belief to admit or  
13 deny the remaining allegations of Paragraph 52, and on that basis, denies said allegations.

14 53. Answering Paragraph 53 of the First Amended Complaint, Defendant lacks  
15 sufficient knowledge and information to form a belief to admit or deny the allegations of  
16 Paragraph 53, and on that basis, denies said allegations.

17 54. Answering Paragraph 54 of the First Amended Complaint, Defendant lacks  
18 sufficient knowledge and information to form a belief to admit or deny the allegations of  
19 Paragraph 54, and on that basis, denies said allegations.

20 55. Answering Paragraph 55 of the First Amended Complaint, Defendant admits that  
21 the CelinaMilitaryShelters.com website advertises multiple shelter products. Answering the  
22 remaining allegations of Paragraph 55 of the First Amended Complaint, the remaining allegations  
23 of Paragraph 55 constitute legal argument or contain legal conclusions, and as such, no response  
24 is required or appropriate. To the extent that any of the remaining allegations in Paragraph 55 are  
25 intended to assert facts, Defendant lacks sufficient knowledge and information to form a belief to  
26 admit or deny the remaining allegations of Paragraph 55, and on that basis, denies said  
27 allegations.

28 56. Answering Paragraph 56 of the First Amended Complaint, Paragraph 56

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1 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 2 appropriate. To the extent that any allegation in Paragraph 56 is intended to assert facts,  
 3 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
 4 allegations of Paragraph 56, and on that basis, denies said allegations.

5 57. Answering Paragraph 57 of the First Amended Complaint, Defendant admits that  
 6 Defendant has contracted with other companies, such as Utilis USA, to manufacture shelters and  
 7 related goods in association with such companies. Answering the remaining allegations of  
 8 Paragraph 57 of the First Amended Complaint, the remaining allegations of Paragraph 57  
 9 constitute legal argument or contain legal conclusions, and as such, no response is required or  
 10 appropriate. To the extent that any of the remaining allegations in Paragraph 57 are intended to  
 11 assert facts, Defendant lacks sufficient knowledge and information to form a belief to admit or  
 12 deny the remaining allegations of Paragraph 57, and on that basis, denies said allegations.

13 58. Answering Paragraph 58 of the First Amended Complaint, Paragraph 58  
 14 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 15 appropriate. To the extent that any allegation in Paragraph 58 is intended to assert facts,  
 16 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
 17 remaining allegations of Paragraph 58, and on that basis, denies said allegations.

18 59. Answering Paragraph 59 of the First Amended Complaint, Defendant admits that  
 19 the “Dynamic Medium Shelter” offered by Defendant does not have National Stock Numbers.  
 20 Answering the remaining allegations of Paragraph 59, Defendant lacks sufficient knowledge and  
 21 information to form a belief to admit or deny the remaining allegations of Paragraph 59, and on  
 22 that basis, denies said allegations.

23 60. Answering Paragraph 60 of the First Amended Complaint, Defendant admits that  
 24 “Dynamic Small Shelter” offered by Defendant does not have any National Stock Numbers.  
 25 Answering the remaining allegations of Paragraph 60, Defendant lacks sufficient knowledge and  
 26 information to form a belief to admit or deny the remaining allegations of Paragraph 60, and on  
 27 that basis, denies said allegations.

28 61. Answering Paragraph 61 of the First Amended Complaint, Paragraph 61  
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1 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 2 appropriate. To the extent that any allegation in Paragraph 61 is intended to assert facts,  
 3 Defendant admits that FAR 9.104-1(d) states “prospective contractors” must “[h]ave a  
 4 satisfactory record of integrity and business ethics.” Except as so admitted, Defendant denies the  
 5 remaining allegations in Paragraph 61.

6 62. Answering Paragraph 62 of the First Amended Complaint, Defendant lacks  
 7 sufficient knowledge and information to form a belief to admit or deny the allegations of  
 8 Paragraph 62, and on that basis, denies said allegations.

9 63. Answering Paragraph 63 of the First Amended Complaint, Defendant lacks  
 10 sufficient knowledge and information to form a belief to admit or deny the allegations of  
 11 Paragraph 63, and on that basis, denies said allegations.

12 64. Answering Paragraph 64 of the First Amended Complaint, Defendant lacks  
 13 sufficient knowledge and information to form a belief to admit or deny the allegations of  
 14 Paragraph 64, and on that basis, denies said allegations.

15 65. Answering Paragraph 65 of the First Amended Complaint, Paragraph 65  
 16 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 17 appropriate. To the extent that any allegation in Paragraph 65 is intended to assert facts,  
 18 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
 19 remaining allegations of Paragraph 65, and on that basis, denies said allegations.

20 66. Answering Paragraph 66 of the First Amended Complaint, Defendant admits that  
 21 it entered into an agreement and contract with Google LLC within the Northern District of  
 22 California so that it could participate in the Google Ads service and display Google Ads. Further  
 23 answering Paragraph 66 of the First Amended Complaint, Defendant admits that as part of its  
 24 ongoing contractual relationship with Google, Defendant selected options offered by Google in  
 25 which an advertiser who pays for keyword search results can have the keywords displayed as  
 26 headlines, within URLs and otherwise within the search results. Except as so admitted,  
 27 Defendant denies the remaining allegations in Paragraph 66.

28 67. Answering Paragraph 67 of the First Amended Complaint, Defendant denies each  
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1 and every allegation contained in Paragraph 67.

2 68. Answering Paragraph 68 of the First Amended Complaint, Defendant admits the  
3 allegations of Paragraph 68 of the First Amended Complaint.

4 **First Cause of Action**

5 69. Answering Paragraph 69 of the First Amended Complaint, Defendant incorporates  
6 its answers to all prior paragraphs of this Answer as if fully set forth here.

7 70. Answering Paragraph 70 of the First Amended Complaint, Paragraph 70  
8 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
9 appropriate. To the extent that any allegation in Paragraph 70 is intended to assert facts,  
10 Defendant admits the allegations of Paragraph 70 of the First Amended Complaint.

11 71. Answering Paragraph 71 of the First Amended Complaint, Paragraph 71  
12 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
13 appropriate. To the extent that any allegation in Paragraph 71 is intended to assert facts,  
14 Defendant admits the allegations of Paragraph 71 of the First Amended Complaint.

15 72. Answering Paragraph 72 of the First Amended Complaint, Paragraph 72  
16 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
17 appropriate. To the extent that any allegation in Paragraph 72 is intended to assert facts,  
18 Defendant admits the allegations of Paragraph 72 of the First Amended Complaint.

19 73. Answering Paragraph 73 of the First Amended Complaint, Paragraph 73  
20 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
21 appropriate. To the extent that any allegation in Paragraph 73 is intended to assert facts,  
22 Defendant admits the allegations of Paragraph 73 of the First Amended Complaint.

23 74. Answering Paragraph 74 of the First Amended Complaint, Paragraph 74  
24 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
25 appropriate. To the extent that any allegation in Paragraph 74 is intended to assert facts,  
26 Defendant denies each and every allegation contained in Paragraph 74.

27 75. Answering Paragraph 75 of the First Amended Complaint, Paragraph 75  
28 constitutes legal argument or contains legal conclusions, and as such, no response is required or

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1 appropriate. To the extent that any allegation in Paragraph 75 is intended to assert facts,  
2 Defendant denies each and every allegation contained in Paragraph 75.

3 76. Answering Paragraph 76 of the First Amended Complaint, Paragraph 76  
4 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
5 appropriate. To the extent that any allegation in Paragraph 76 is intended to assert facts,  
6 Defendant denies each and every allegation contained in Paragraph 76.

7 77. Answering Paragraph 77 of the First Amended Complaint, Paragraph 77  
8 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
9 appropriate. To the extent that any allegation in Paragraph 77 is intended to assert facts,  
10 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
11 remaining allegations of Paragraph 77, and on that basis, denies said allegations.

12 78. Answering Paragraph 78 of the First Amended Complaint, Paragraph 78  
13 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
14 appropriate. To the extent that any allegation in Paragraph 78 is intended to assert facts,  
15 Defendant denies each and every allegation contained in Paragraph 78.

16 79. Answering Paragraph 79 of the First Amended Complaint, Paragraph 79  
17 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
18 appropriate. To the extent that any allegation in Paragraph 79 is intended to assert facts,  
19 Defendant denies each and every allegation contained in Paragraph 79.

20 80. Answering Paragraph 80 of the First Amended Complaint, Paragraph 80  
21 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
22 appropriate. To the extent that any allegation in Paragraph 80 is intended to assert facts,  
23 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
24 remaining allegations of Paragraph 80, and on that basis, denies said allegations.

### 25 **Second Cause of Action**

26 81. Answering Paragraph 81 of the First Amended Complaint, Defendant incorporates  
27 its answers to all prior paragraphs of this Answer as if fully set forth here.

28 82. Answering Paragraph 82 of the First Amended Complaint, Paragraph 82

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1 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 2 appropriate. To the extent that any allegation in Paragraph 82 is intended to assert facts,  
 3 Defendant admits the allegations of Paragraph 82 of the First Amended Complaint.

4 83. Answering Paragraph 83 of the First Amended Complaint, Paragraph 83  
 5 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 6 appropriate. To the extent that any allegation in Paragraph 83 is intended to assert facts,  
 7 Defendant denies each and every allegation contained in Paragraph 83.

8 84. Answering Paragraph 84 of the First Amended Complaint, Paragraph 84  
 9 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 10 appropriate. To the extent that any allegation in Paragraph 84 is intended to assert facts,  
 11 Defendant denies each and every allegation contained in Paragraph 84.

12 85. Answering Paragraph 85 of the First Amended Complaint, Paragraph 85  
 13 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 14 appropriate. To the extent that any allegation in Paragraph 85 is intended to assert facts,  
 15 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
 16 remaining allegations of Paragraph 85, and on that basis, denies said allegations.

17 86. Answering Paragraph 86 of the First Amended Complaint, Paragraph 86  
 18 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 19 appropriate. To the extent that any allegation in Paragraph 86 is intended to assert facts,  
 20 Defendant denies each and every allegation contained in Paragraph 86.

21 87. Answering Paragraph 87 of the First Amended Complaint, Paragraph 87  
 22 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 23 appropriate. To the extent that any allegation in Paragraph 87 is intended to assert facts,  
 24 Defendant denies each and every allegation contained in Paragraph 87.

25 88. Answering Paragraph 88 of the First Amended Complaint, Paragraph 88  
 26 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 27 appropriate. To the extent that any allegation in Paragraph 88 is intended to assert facts,  
 28 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the

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1 remaining allegations of Paragraph 88, and on that basis, denies said allegations.

2 **Third Cause of Action**

3 89. Answering Paragraph 89 of the First Amended Complaint, Defendant incorporates  
4 its answers to all prior paragraphs of this Answer as if fully set forth here.

5 90. Answering Paragraph 90 of the First Amended Complaint, Paragraph 90  
6 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
7 appropriate. To the extent that any allegation in Paragraph 90 is intended to assert facts,  
8 Defendant denies each and every allegation contained in Paragraph 90.

9 91. Answering Paragraph 91 of the First Amended Complaint, Paragraph 91  
10 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
11 appropriate. To the extent that any allegation in Paragraph 91 is intended to assert facts,  
12 Defendant denies it has been and is passing off its products as those of Plaintiff, sponsored by  
13 Plaintiff, approved by Plaintiff, affiliated with Plaintiff, connected with Plaintiff and/or associated  
14 with Plaintiff. To the extent that any of the remaining allegations in Paragraph 91 are intended to  
15 assert facts, Defendant lacks sufficient knowledge and information to form a belief to admit or  
16 deny the remaining allegations of Paragraph 91, and on that basis, denies said allegations.

17 92. Answering Paragraph 92 of the First Amended Complaint, Paragraph 92  
18 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
19 appropriate. To the extent that any allegation in Paragraph 92 is intended to assert facts,  
20 Defendant denies each and every allegation contained in Paragraph 92.

21 93. Answering Paragraph 93 of the First Amended Complaint, Paragraph 93  
22 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
23 appropriate. To the extent that any allegation in Paragraph 93 is intended to assert facts,  
24 Defendant denies it has been and will continue to be unjustly enriched. To the extent that any of  
25 the remaining allegations in Paragraph 93 are intended to assert facts, Defendant lacks sufficient  
26 knowledge and information to form a belief to admit or deny the remaining allegations of  
27 Paragraph 93, and on that basis, denies said allegations.

28 94. Answering Paragraph 94 of the First Amended Complaint, Paragraph 94

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1 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 2 appropriate. To the extent that any allegation in Paragraph 94 is intended to assert facts,  
 3 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
 4 remaining allegations of Paragraph 94, and on that basis, denies said allegations.

5 95. Answering Paragraph 95 of the First Amended Complaint, Paragraph 95  
 6 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 7 appropriate. To the extent that any allegation in Paragraph 95 is intended to assert facts,  
 8 Defendant denies each and every allegation contained in Paragraph 95.

9 96. Answering Paragraph 96 of the First Amended Complaint, Paragraph 96  
 10 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 11 appropriate. To the extent that any allegation in Paragraph 96 is intended to assert facts,  
 12 Defendant denies each and every allegation contained in Paragraph 96.

13 97. Answering Paragraph 97 of the First Amended Complaint, Paragraph 97  
 14 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 15 appropriate. To the extent that any allegation in Paragraph 97 is intended to assert facts,  
 16 Defendant denies each and every allegation contained in Paragraph 97.

17 98. Answering Paragraph 98 of the First Amended Complaint, Paragraph 98  
 18 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 19 appropriate. To the extent that any allegation in Paragraph 98 is intended to assert facts,  
 20 Defendant denies each and every allegation contained in Paragraph 98.

#### 21 **Fourth Cause of Action**

22 99. Answering Paragraph 99 of the First Amended Complaint, Defendant incorporates  
 23 its answers to all prior paragraphs of this Answer as if fully set forth here.

24 100. Answering Paragraph 100 of the First Amended Complaint, Paragraph 100  
 25 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 26 appropriate. To the extent that any allegation in Paragraph 100 is intended to assert facts,  
 27 Defendant denies each and every allegation contained in Paragraph 100.

28 101. Answering Paragraph 101 of the First Amended Complaint, Paragraph 101

{ABK-01531338;2}

1 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 2 appropriate. To the extent that any allegation in Paragraph 101 is intended to assert facts,  
 3 Defendant denies each and every allegation contained in Paragraph 101.

4 102. Answering Paragraph 102 of the First Amended Complaint, Paragraph 102  
 5 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 6 appropriate. To the extent that any allegation in Paragraph 102 is intended to assert facts,  
 7 Defendant denies each and every allegation contained in Paragraph 102.

8 103. Answering Paragraph 103 of the First Amended Complaint, Paragraph 103  
 9 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 10 appropriate. To the extent that any allegation in Paragraph 103 is intended to assert facts,  
 11 Defendant denies it has been and is passing off its products as those of Plaintiff, sponsored by  
 12 Plaintiff, approved by Plaintiff, affiliated with Plaintiff, connected with Plaintiff and/or associated  
 13 with Plaintiff. To the extent that any of the remaining allegations in Paragraph 103 are intended  
 14 to assert facts, Defendant lacks sufficient knowledge and information to form a belief to admit or  
 15 deny the remaining allegations of Paragraph 103, and on that basis, denies said allegations.

16 104. Answering Paragraph 104 of the First Amended Complaint, Paragraph 104  
 17 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 18 appropriate. To the extent that any allegation in Paragraph 104 is intended to assert facts,  
 19 Defendant denies each and every allegation contained in Paragraph 104.

20 105. Answering Paragraph 105 of the First Amended Complaint, Paragraph 105  
 21 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 22 appropriate. To the extent that any allegation in Paragraph 105 is intended to assert facts,  
 23 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
 24 remaining allegations of Paragraph 105, and on that basis, denies said allegations.

25 106. Answering Paragraph 106 of the First Amended Complaint, Paragraph 106  
 26 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 27 appropriate. To the extent that any allegation in Paragraph 106 is intended to assert facts,  
 28 Defendant denies it has been and will continue to be unjustly enriched. To the extent that any of

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1 the remaining allegations in Paragraph 106 are intended to assert facts, Defendant lacks sufficient  
 2 knowledge and information to form a belief to admit or deny the remaining allegations of  
 3 Paragraph 106, and on that basis, denies said allegations.

4 107. Answering Paragraph 107 of the First Amended Complaint, Paragraph 107  
 5 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 6 appropriate. To the extent that any allegation in Paragraph 107 is intended to assert facts,  
 7 Defendant lacks sufficient knowledge and information to form a belief to admit or deny the  
 8 remaining allegations of Paragraph 107, and on that basis, denies said allegations.

9 108. Answering Paragraph 108 of the First Amended Complaint, Paragraph 108  
 10 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 11 appropriate. To the extent that any allegation in Paragraph 108 is intended to assert facts,  
 12 Defendant denies each and every allegation contained in Paragraph 108.

13 109. Answering Paragraph 109 of the First Amended Complaint, Paragraph 109  
 14 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 15 appropriate. To the extent that any allegation in Paragraph 109 is intended to assert facts,  
 16 Defendant denies each and every allegation contained in Paragraph 109.

17 110. Answering Paragraph 110 of the First Amended Complaint, Paragraph 110  
 18 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 19 appropriate. To the extent that any allegation in Paragraph 110 is intended to assert facts,  
 20 Defendant denies each and every allegation contained in Paragraph 110.

### 21 **Fifth Cause of Action**

22 111. Answering Paragraph 111 of the First Amended Complaint, Defendant  
 23 incorporates its answers to all prior paragraphs of this Answer as if fully set forth here.

24 112. Answering Paragraph 112 of the First Amended Complaint, Paragraph 112  
 25 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 26 appropriate. To the extent that any allegation in Paragraph 112 is intended to assert facts,  
 27 Defendant denies each and every allegation contained in Paragraph 112.

28 113. Answering Paragraph 113 of the First Amended Complaint, Paragraph 113

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1 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 2 appropriate. To the extent that any allegation in Paragraph 113 is intended to assert facts,  
 3 Defendant denies it engaged in deceptive trade practices. To the extent that any of the remaining  
 4 allegations in Paragraph 113 are intended to assert facts, Defendant lacks sufficient knowledge  
 5 and information to form a belief to admit or deny the remaining allegations of Paragraph 113, and  
 6 on that basis, denies said allegations.

7 114. Answering Paragraph 114 of the First Amended Complaint, Paragraph 114  
 8 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 9 appropriate. To the extent that any allegation in Paragraph 114 is intended to assert facts,  
 10 Defendant denies each and every allegation contained in Paragraph 114.

11 115. Answering Paragraph 115 of the First Amended Complaint, Paragraph 115  
 12 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 13 appropriate. To the extent that any allegation in Paragraph 115 is intended to assert facts,  
 14 Defendant denies each and every allegation contained in Paragraph 115.

15 116. Answering Paragraph 116 of the First Amended Complaint, Paragraph 116  
 16 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 17 appropriate. To the extent that any allegation in Paragraph 116 is intended to assert facts,  
 18 Defendant denies it engaged in unlawful acts. To the extent that any of the remaining allegations  
 19 in Paragraph 116 are intended to assert facts, Defendant lacks sufficient knowledge and  
 20 information to form a belief to admit or deny the remaining allegations of Paragraph 113, and on  
 21 that basis, denies said allegations.

22 117. Answering Paragraph 117 of the First Amended Complaint, Paragraph 117  
 23 constitutes legal argument or contains legal conclusions, and as such, no response is required or  
 24 appropriate. To the extent that any allegation in Paragraph 117 is intended to assert facts,  
 25 Defendant denies it engaged in unlawful conduct. To the extent that any of the remaining  
 26 allegations in Paragraph 117 are intended to assert facts, Defendant lacks sufficient knowledge  
 27 and information to form a belief to admit or deny the remaining allegations of Paragraph 117, and  
 28 on that basis, denies said allegations.

118. Answering Paragraph 118 of the First Amended Complaint, Paragraph 118 constitutes legal argument or contains legal conclusions, and as such, no response is required or appropriate. To the extent that any allegation in Paragraph 118 is intended to assert facts, Defendant denies each and every allegation contained in Paragraph 118.

119. Answering Paragraph 119 of the First Amended Complaint, Paragraph 119 constitutes legal argument or contains legal conclusions, and as such, no response is required or appropriate. To the extent that any allegation in Paragraph 119 is intended to assert facts, Defendant denies each and every allegation contained in Paragraph 119.

120. Answering Paragraph 120 of the First Amended Complaint, Paragraph 120 constitutes legal argument or contains legal conclusions, and as such, no response is required or appropriate. To the extent that any allegation in Paragraph 120 is intended to assert facts, Defendant denies each and every allegation contained in Paragraph 120.

### Prayer for Relief

Answering the Prayer for Relief stated in the First Amended Complaint, Defendant denies the allegations included in and/or which purportedly give rise to any such prayer. Defendant denies Plaintiff is entitled to the relief sought by the First Amended Complaint. Defendant denies all allegations and suggestions of their wrongdoing that would give rise to a legally cognizable action against Defendant.

## Affirmative Defenses

Defendant reserves the right to assert any and all applicable defenses to Plaintiff's claims. Defendant has not yet completed discovery in this action, and therefore reserves the right to amend or otherwise supplement this pleading on that basis. Without limiting the generality of the foregoing, without regard to whether the defenses set forth below are affirmative defenses within the meaning of Fed. R. Civ. P. 8(c), and without conceding that any such defense must be set forth in this Answer, Defendant states as follows:

### First Affirmative Defense

As a separate and distinct affirmative defense to the First Amended Complaint and each cause of action therein, Defendant alleges that Plaintiff's First Amended Complaint fails to state

1 facts sufficient to constitute a cause of action upon which relief can be granted.

2 **Second Affirmative Defense**

3 As a separate and distinct affirmative defense to the First Amended Complaint and each  
4 cause of action therein, Defendant alleges, upon information and belief, that Plaintiff's claims are  
5 barred, in whole or in part, by the doctrine of waiver.

6 **Third Affirmative Defense**

7 As a separate and distinct affirmative defense to the First Amended Complaint and each  
8 cause of action therein, Defendant alleges, upon information and belief, that Plaintiff's claims are  
9 barred, in whole or in part, by the doctrine of laches.

10 **Fourth Affirmative Defense**

11 As a separate and distinct affirmative defense to the First Amended Complaint and each  
12 cause of action therein, Defendant alleges, upon information and belief, that Plaintiff's claims are  
13 barred in whole or in part by the doctrine of estoppel.

14 **Fifth Affirmative Defense**

15 As a separate and distinct affirmative defense to the First Amended Complaint and each  
16 cause of action therein, Defendant alleges, upon information and belief, that Plaintiff's claims are  
17 barred in whole or in part by the doctrine of unclean hands.

18 **Sixth Affirmative Defense**

19 As a separate and distinct affirmative defense to the First Amended Complaint and each  
20 cause of action therein, Defendant alleges, upon information and belief, that the acts, or omissions  
21 to act, of Defendant, and/or its agents, servants or employees (which allegation is made for the  
22 purposes of this pleading and shall not constitute an admission), were not a substantial cause /  
23 factor in bringing about Plaintiff's alleged injuries and damages and were not a substantial cause /  
24 factor of any alleged injury or damage set forth by Plaintiff, if any there were.

25 **Seventh Affirmative Defense**

26 As a separate and distinct affirmative defense to the First Amended Complaint and each  
27 cause of action therein, Defendant alleges, upon information and belief, that Plaintiff fails to state a  
28 claim upon which an award of attorneys' fees may be granted.

**Eighth Affirmative Defense**

As a separate and distinct affirmative defense to the First Amended Complaint and each cause of action therein, Defendant alleges, upon information and belief, that Plaintiff has not suffered any damage resulting from Defendant's conduct (which allegation is made for the purposes of this pleading and shall not constitute an admission) and any recovery by Plaintiff must be diminished or barred by reason thereof.

**Ninth Affirmative Defense**

As a separate and distinct affirmative defense to the First Amended Complaint and each cause of action therein, Defendant alleges, upon information and belief, that Plaintiff's claims fail to properly state a claim for injunctive relief.

**Tenth Affirmative Defense**

As a separate and distinct affirmative defense to the First Amended Complaint and each cause of action therein, Defendant alleges, upon information and belief, that the First Amended Complaint fails to state facts sufficient to constitute and/or warrant an award of exemplary damages against Defendant.

**Eleventh Affirmative Defense**

As a separate and distinct affirmative defense to the First Amended Complaint and each cause of action therein, Defendant alleges, upon information and belief, that the claims made in the First Amended Complaint are barred, in whole or in part, by applicable statutes of limitations.

**Twelfth Affirmative Defense**

As a separate and distinct affirmative defense to the First Amended Complaint and each cause of action therein, Defendant alleges, upon information and belief, that the claims made in the First Amended Complaint are barred, in whole or in part, by abandonment of any marks at issue.

**Thirteenth Affirmative Defense**

As a separate and distinct affirmative defense to the First Amended Complaint and each cause of action therein, Defendant alleges, upon information and belief, that the claims made in the First Amended Complaint are barred, in whole or in part, on the basis that some or all marks at issue are generic.



1 **Fourteenth Affirmative Defense**

2 As a separate and distinct affirmative defense to the First Amended Complaint and each  
3 cause of action therein, Defendant alleges, upon information and belief, that the claims made in the  
4 First Amended Complaint are barred, in whole or in part, any infringement (which allegation is made  
5 for the purposes of this pleading and shall not constitute an admission) was innocent.

6 **Fifteenth Affirmative Defense**

7 As a separate and distinct affirmative defense to the First Amended Complaint and each  
8 cause of action therein, Defendant alleges, upon information and belief, that the claims made in the  
9 First Amended Complaint are barred because there has been no damage in any amount, manner or at  
10 all by reason of any act alleged against Defendant in the First Amended Complaint (which allegation  
11 is made for the purposes of this pleading and shall not constitute an admission), and the relief prayed  
12 for in the First Amended Complaint therefore cannot be granted.

13 **PRAYER**

14 WHEREFORE, Defendant prays for judgment as follows:

- 15 1. That Plaintiff is granted no relief in this action;
- 16 2. That the First Amended Complaint be dismissed with prejudice and that judgment  
17 be entered against Plaintiff and in favor of Defendant in each cause of action;
- 18 3. That Defendant recovers judgment in its favor and its costs of suit incurred herein;  
19 and
- 20 4. For such other and further relief as the Court may deem just and proper.

21 **DEMAND FOR JURY TRIAL**

22 Pursuant to Federal Rule of Civil Procedure 38(b) and Civil Local Rule 3-6, Defendant  
23 CELINA TENT, INC. hereby demands a trial by jury on all claims, causes of action, or issues in  
24 this action that are triable as a matter of right to a jury, and request the Clerk of the Court  
25 designate the matter as a jury trial pursuant to Federal Rule of Civil Procedure 39(a).

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1 Dated: February 27, 2024

FENTON & KELLER

2  
3 By: Andrew B. Kreeft  
4 Andrew B. Kreeft, Esq.  
5 Emmanuel Perea Jimenez, Esq.  
6 Attorneys for Defendant  
7 CELINA TENT, INC.  
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